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8 Attorney for Defendant Josef F. Boehm

9 IN THE UNITED STATES DISTRICT COURT

10 DISTRICT OF ALASKA

11

12 Sally C. Purser, )  
13 Plaintiff, ) REPLY TO PLAINTIFF'S OPPOSITION  
14 v. ) TO DEFENDANT BOEHM'S MOTION TO  
15 Josef F. Boehm, Allen K. ) COMPEL PSYCHIATRIC EXAMINATION  
16 Bolling, and Bambi Tyree, ) PURSUANT TO FEDERAL RULES OF  
17 Defendants. ) CIVIL PROCEDURE, RULE 35  
18 \_\_\_\_\_ )  
19 )  
20 )

CASE NO.: A05-0085 (JKS)

21 I. DEFENDANTS REQUEST FOR AN EXAMINATION WAS TIMELY MADE AND GOOD  
22 CAUSE HAS BEEN SHOWN

23 Defendant Boehm hereinafter addresses Plaintiff's opposition as  
follows:

24 A. Plaintiff's Contention That Boehm Has Waited to the Last  
25 Minute to Perform a Mental Examination.

26 Within one day of the Court's November 9, 2006 Order, counsel for  
27 Boehm attempted to meet and confer in order to set up an examination.  
28 Plaintiff's counsel denied the request.

1       Boehm's counsel again attempted to meet and confer on December  
2 6, 2006. Plaintiff's counsel again denied the request.

3       The week of December 12, 2006, Boehm's counsel sent expert Dr.  
4 Mark Mills to Anchorage for the purpose of an examination. Plaintiff's  
5 counsel refused refused.

6       A trial date has not been set, therefore, Plaintiff will not be  
7 prejudiced.

8       Defendant has never insinuated that he would refuse to allow a  
9 deposition of any of his experts. In fact, Defendant believes a  
10 Scheduling and Planning Conference is needed to calendar mutually  
11 agreeable dates for the taking of expert depositions.

12      Plaintiff argues "Boehm did not include a mental examination as  
13 part of the discovery plan to be incorporated in the Scheduling and  
14 Planning Order".

15      Present counsel was not party to that agreement and has requested  
16 a Scheduling and Planning Conference with this Honorable Court. Boehm  
17 will again seek a Conference with the Court due to the outstanding  
18 discovery issues and status of discovery within the present action.

19

20      **B. Plaintiff's allegation that Boehm has failed to show good  
Cause.**

21      Plaintiff alleges that Defendant does not show good cause because  
22 he can obtain the information and has obtained it through other means.  
23 Plaintiff sites to 1) the Dr. Rose report, and 2) Plaintiff's  
24 deposition.

25      Many of the events of Purser's life were withheld from Dr. Rose  
26 thus invalidating his findings as they relate to Defendant Boehm's  
27 alleged conduct. Missing are the myriad of individuals for whom Purser

1 smoked "crack" cocaine with, obtained "crack" cocaine from, traded sex  
 2 for money and drugs with as well as a detailed account of her  
 3 involvement in several scams to defraud men of their money and  
 4 property with co-conspirator Bambi Tyree.

5 Dr. Rose opined "...***She is experiencing significant psychological***  
 6 ***problems, although she may be exaggerating her complaints...***". Dr.  
 7 Rose Report, page 8

8 Furthermore, Defendant has shown a myriad of inconsistencies in  
 9 Plaintiff's testimony and as compared to the information provided to  
 10 her expert Dr. Rose. For this reason a true evaluation is needed.

11           **C. Plaintiff's Belief That an Independent Expert Should be**  
 12 **Appointed.**

13 Plaintiff's counsel contends that an Independent Expert be  
 14 appointed because Dr. Mark Mills "specializes in testifying for  
 15 defense attorneys and one who is likely biased by the misinformation  
 16 provided by Boehm and his legal team".

17 Counsel's comments are flagrant, irresponsible and highly  
 18 demeaning.

19 Dr. Mills is one of the foremost experts in his field. His  
 20 educational back round, reputation of honesty and professional  
 21 experience are of the utmost respectability. His curriculum vitae  
 22 provided to this Court speaks for itself. Plaintiff's counsel has no  
 23 basis for his irresponsible allegations and insults.

24 Defendant's counsel has been more than up front with Plaintiff's  
 25 counsel and has attempted and will continue civilized communications  
 26 through writing, telephone and in person meetings. Defense counsel has  
 27 been and continues to be the subject of an unwarranted and unprovoked

1 steady stream of personal attacks by Plaintiff's counsel throughout  
2 this case.

3 Defendant's counsel respectfully requests that the insults come  
4 to an end as they serve no purpose to the outcome of this litigation  
5 nor do they enhance the argument of either party.

6 Finally, Defendant has no objection to a observer being present  
7 in during the examination, to be there solely as an observer.

8 **II. CONCLUSION**

10 For the foregoing reasons, Defendant Boehm respectfully requests  
11 that this Honorable Court Order Purser to submit to a psychological  
12 evaluation with Dr. Mills.

13 January 11, 2007 KENNER LAW FIRM, P.C.

15 By: \_\_\_\_\_ /S/  
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17 Attorney for Defendant Josef F. Boehm

18 By: \_\_\_\_\_ /S/  
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